

**MINUTES OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**  
Monday, October 21, 2002 – 2:00 p.m. – Room 416 State Capitol

**Members Present:**

Sen. Howard A. Stephenson, Senate Chair  
Rep. David Ure, House Chair  
Sen. Mike Dmitrich  
Sen. Ed Mayne  
Sen. Michael G. Waddoups  
Rep. Judy A. Buffmire  
Rep. James R. Gowans  
Rep. Merlynn T. Newbold  
Speaker Martin R. Stephens

**Members Absent:**

President Al Mansell

**Staff Present:**

Mr. Arthur L. Hunsaker, Research Analyst  
Ms. Susan Creager Allred, Associate General Counsel  
Ms. Cassandra N. Bauman, Legislative Secretary

**Note:** A list of others present and a copy of materials can be found at <http://www.image.le.state.ut.us/imaging/history.asp> or by contacting the committee secretary at 538-1032.

**1. Committee Business**

Chair Ure called the meeting to order at 2:13 p.m.

**MOTION:** Rep. Newbold moved to approve the minutes of the October 8, 2002 meeting with a technical correction. The motion passed unanimously.

**2. Policies and Guidance Documents of State Agencies**

Mr. Ken Hansen, Director, Division of Administrative Rules, deferred to the committee staff presentation on the definition of "policy" and "rule."

**3. Staff Presentations**

**A. Definition of "Policy" and "Rule"**

Mr. Hunsaker introduced the issue. He explained that the Committee has been reviewing the process of policy making throughout state agencies and the various definitions of "policy" and "rule". He presented and distributed "Policy and Rule."

Rep. Buffmire questioned the statutory definition of a policy which states that "a policy is a rule if it conforms to the definition of a rule". She stated that it is difficult to understand and that the language seems to mix up what state agencies can do and what the Legislature can do.

Speaker Stephens concurred that the definitions of policy and rule need to be clarified. He indicated that if the definition of rule was more clear, policy would not need to be defined.

Committee discussion followed.

Mr. Wallace McCarlie, Research Assistant, Office of Legislative Research and General Counsel, explained that many states equate policy with law, which is left to the Legislature. He stated that rule is defined as the implementation of those laws in most states.

## **2. Policies and Guidance Documents of State Agencies (cont.)**

Mr. Hansen continued his presentation. He provided background on the issue. He indicated that discussion has been in progress regarding policies and rules in the state. He distributed "Utah Administrative Rulemaking Act – Draft Amendments to Address the Policy Issue" and indicated that the draft would provide a starting point for discussion of how to best clarify the issues.

Mr. Hansen indicated that administrative rules are a legal tool for an agency when implementing statute and are not intended to be guidance or policy documents. He stated that agencies need the authority to write rules and put policies in place.

Mr. Gary Doxey, Legal Counselor, Governor's Office, indicated that the underlining concern regarding the differentiation of policy and rule is certainty. He stated that many agencies, when writing administrative rules, struggle with the concept of whether an item should be addressed in policy or rule.

**MOTION:** Speaker Stephens moved to direct staff to draft options for redefining policy and rule in statute. The motion passed unanimously.

## **3. Staff Presentations (cont.)**

### **B. Update: Agency Response to New Laws Altering Rulemaking Authority**

Mr. Hunsaker distributed "Summary of 2002 Legislation Affecting Rulemaking." He indicated that the Committee had asked staff to follow up with state agencies regarding their implementation by rule of legislation, passed in 2002, which altered rulemaking authority. He stated that more detailed information is available if requested.

## **4. Other Items / Adjourn**

Future meetings are tentatively scheduled for Tuesday, November 5, 2002 at 9:00 a.m. and Monday, November 18, 2002 at 2:00 p.m.

**MOTION:** Speaker Stephens moved to adjourn the meeting. The motion passed unanimously.

Chair Ure adjourned the meeting at 3:40 p.m.